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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

IN RE GOOGLE PLAY CONSUMER
ANTITRUST LITIGATION

Case No. 3:20-cv-05761-JD

IN RE GOOGLE PLAY DEVELOPER
ANTITRUST LITIGATION

Case No. 3:20-cv-05792-JD

EPIC GAMES, INC.,

Case No. 3:20-cv-05671-JD

Plaintiff,

v.

GOOGLE LLC et al.,

Defendants.

**JOINT CASE MANAGEMENT
STATEMENT**

Date: December 3, 2020

Time: 10:00 a.m.

Courtroom: 11, 19th Floor (via Zoom)

Judge: Hon. James Donato

Pursuant to this Court’s minute entry Orders dated October 29, 2020, setting a further status conference for December 3, 2020 (*Epic Games Inc. v. Google LLC et al.*, Case No. 3:20-cv-05671-JD (“*Epic Action*”), ECF No. 82; *In re Google Play Consumer Antitrust Litigation*, Case No. 3:20-cv-05761-JD (“*Consumer Action*”)¹, ECF No. 65; *In re Google Play Developer Antitrust Litigation*, Case No. 3:20-cv-05792-JD (“*Developer Action*”)², ECF No. 66) (collectively, the “Minute Orders”), the Parties in the above-captioned related actions (the “Related Actions”), by and through their undersigned counsel, submit this Joint Case Management Statement.

I. CASE STATUS SUMMARY

Scheduling Order. The Parties submitted to the Court an agreed proposed scheduling order on November 6, 2020. (*Epic Action*, ECF No. 87; *Consumer Action*, ECF No. 71; *Developer Action*, ECF No. 68.)

Google’s Motion to Dismiss. Google filed its opening brief in support of its motion to dismiss the *Epic Action* and the *Developer Action* on November 13, 2020. Opposition is due December 21, 2020, and Google’s reply is due January 20, 2021.

¹ On November 20, 2020, the Court ordered the consolidation of *Carr v. Google LLC et al.*, Case No. 3:20-cv-05761-JD; *Bentley v. Google LLC et al.*, Case No. 3:20-cv-07079-JD; *McNamara v. Google LLC et al.*, Case No. 3:20-cv-07361-JD; *Herrera v. Google LLC et al.*, Case No. 3:20-cv-07365-JD; *Carroll v. Google LLC et al.*, Case No. 3:20-cv-07379-JD; and *Gamble v. Google LLC et al.*, Case No. 3:20-cv-07984-JD, renaming the consolidated case “*In re Google Play Consumer Antitrust Litigation*”. (*Consumer Action*, ECF No. 78.) Another consumer case, *Stark v. Google, LLC*, Case No. 5:20-cv-8309 (“*Stark*”), was filed November 24, 2020, and a motion to relate *Stark* to *In re Google Play Consumer Antitrust Litigation* was filed the same day. (*Consumer Action*, ECF No. 86.)

² On November 20, 2020, the Court ordered the consolidation of *Pure Sweat Basketball, Inc. v. Google LLC et al.*, Case No. 3:20-cv-05792-JD and *Peekya Services Inc. v. Google LLC et al.*, Case No. 3:20-cv-06772-JD, renaming the consolidated case “*In re Google Play Developer Antitrust Litigation*”. (*Developer Action*, ECF No. 72.)

1 **Discovery Coordination.** The following discovery-related developments have
 2 occurred:

- 3 • *Coordination of Discovery Order.* The Court entered an order regarding
 4 coordination of discovery on November 10, 2020. (*Epic Action*, ECF No. 89; *Consumer*
 5 *Action*, ECF No. 73; *Developer Action*, ECF No. 70.)
- 6 • *Discovery of Electronically Stored Information (“ESI”) Order.* The Court
 7 entered an order regarding the discovery of ESI on November 10, 2020. (*Epic Action*,
 8 ECF No. 88; *Consumer Action*, ECF No. 72; *Developer Action*, ECF No. 69.)
- 9 • *Statement Regarding Protective Order.* On October 23, 2020, counsel for the
 10 parties in the *Epic*, *Carr*, *Bentley*, *Pure Sweat Basketball* and *Peekya App Services*
 11 actions filed a joint statement regarding protective order, submitting for this Court’s
 12 consideration two competing versions of a proposed protective order that are identical in
 13 all respects except for one section (Section 7.4). The Parties put forth their positions in
 14 the joint statement. (*Epic Action*, ECF No. 77; *Consumer Action*, ECF No. 59; *Developer*
 15 *Action*, ECF No. 62.)
- 16 • *Discovery Served to Date.* On November 9, 2020, initial disclosures were served
 17 for the *Epic*, *Carr*, *Bentley*, *Pure Sweat Basketball* and *Peekya App Services* actions, and
 18 Plaintiffs in those lawsuits served their joint First Set of Requests for Production to
 19 Google on the same day. On November 11, 2020, initial disclosures for the *Carroll*
 20 action were served.
- 21 • Counsel for the recently-related consumer class actions *Herrera*, *McNamara*, and
 22 *Gamble* did not participate in these joint filings because their cases were either not yet
 23 filed or not yet related to the *Epic* action. They have since participated in joint meet and
 24 confer sessions with all counsel, support coordinated discovery, and join in the First Set
 25 of Requests for Production to Google and the Statement Regarding Protective Order.

Counsel for *Carroll* supports these efforts and will join the First Set of Requests for Production and the Statement Regarding Protective Order. Counsel for the consumer actions held a conference call on November 25, 2020 to discuss common issues.

Motion for Transfer and Consolidation. On October 30, 2020, Plaintiff J. Jackson Paige filed *Paige v. Google LLC*, Case No. 1:20-cv-03158 (D.D.C.) (“*Paige Action*”), which is a putative consumer class action that mirrors the *Consumer Action*. On November 5, 2020, Plaintiff Paige moved pursuant to 28 U.S.C. § 1407 to consolidate the Related Actions with *In re Google Digital Advertising Antitrust Litigation*, Case No. 5:20-cv-03556 (N.D. Cal.) and the *Paige Action*, and to transfer the consolidated actions to the United States District Court for the District of Columbia for pretrial proceedings. The next day, the Judicial Panel on Multidistrict Litigation ordered the parties to respond to that motion no later than November 27, 2020, with the reply to be filed on or before December 4, 2020. On November 24, 2020, Google moved to transfer the *Paige Action* to the United States District Court for the Northern District of California pursuant to 28 U.S.C. § 1404(a).

Motion to Appoint Interim Class Counsel in the *Developer Action*. On October 21, 2020, Plaintiffs in *Pure Sweat Basketball, Inc. v. Google LLC, et al.*, Case No. 3:20-cv05792-JD, and *Peekya App Services, Inc. v. Google LLC et al.*, Case No. 3:20-cv-06772-JD, moved pursuant to Federal Rule of Civil Procedure 23(g)(3) to appoint co-lead interim class counsel for the *Developer Action* (the “Interim Class Counsel Motion”). (*Developer Action*, ECF No. 55.) On November 20, 2020, the Court issued an Order Regarding Consolidation in the *Developer Action* indicating it would address the Interim Class Counsel Motion in a future order. (*Developer Action*, ECF No. 72.)

Motion to Appoint Interim Class Counsel in the *Consumer Action*. On November 17, 2020, Plaintiffs in the *Consumer Action* sought leave to file a motion to appoint interim lead counsel pursuant to Federal Rule of Civil Procedure 23(g)(3). (*Consumer Action*,

1 ECF No. 77.) This Court granted that request on November 20, 2020. (*Consumer Action*, ECF
2 No. 78.) Subsequently, on November 23, 2020, Plaintiffs in *Carr. v. Google LLC et al.*, Case
3 No. 3:20-cv-05761-JD, *Bentley v. Google LLC et al.*, Case No. 3:20-cv-07079-JD and *Carroll v.*
4 *Google LLC et al.*, Case No. 3:20-cv-07379-JD, moved to appoint co-lead interim class counsel
5 for the *Consumer Action*. (*Consumer Action*, ECF No. 81.) That motion is set for hearing on
6 December 31, 2020. (*Id.*) On November 25, 2020, Plaintiffs in *Herrera v. Google LLC et al.*,
7 Case No. 5:20-cv-07365 and *McNamara v. Google LLC et al.*, 3:20-cv-05671 moved to appoint
8 Kaplan Fox & Kilsheimer LLP and Cotchett, Pitre & McCarthy, LLP as co-lead interim class
9 counsel and appointment of a steering committee. (*Consumer Action*, ECF No. 87.) That
10 motion is set for hearing on December 31, 2020. (*Id.*) Counsel for the consumer plaintiffs are
11 continuing discussions to see if there can be private ordering, subject to court approval, to
12 resolve these motions.

13 **Consolidation of Consumer Complaints.** On November 23, 2020, the Court
14 ordered counsel for all pending consumer class actions to file a consolidated complaint no later
15 than December 28, 2020. (*Consumer Action* ECF No. 80). Consumer Plaintiffs' counsel are
16 coordinating those efforts.

1 Dated: November 25, 2020

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E-FILING ATTESTATION

I, Jamie L. Boyer, am the ECF User whose ID and password are being used to file this document. In compliance with Civil Local Rule 5-1(i)(3), I hereby attest that each of the signatories identified above has concurred in this filing and that a true and correct copy of the foregoing document will be served upon all parties of record via the Court's electronic notification service.

/s/ Jamie L. Boyer

Jamie L. Boyer